

LABOUR AND EMPLOYMENT DEPARTMENT

The 19th August, 1973

No. 7912-7/Lab-73/29290.—The Governor of Haryana is pleased to make the following appointment and posting :—

Serial No.	Name of Officer	Appointed and posted as	With effect from	Remarks
1	Miss Manju	Assistant Employment Officer (Vocational Guidance), Sub-Regional Employment Exchange, Rohtak, on an <i>ad hoc</i> basis against an existing vacancy	14-6-73 (F.N.)	

The 26th August, 1973.

May, 1973 (A.N.) on the expiry of the term of her appointment.

No. 5913-7Lab-73/29886.—Miss Neena Nayar, Assistant Employment Officer (Vocational Guidance), Sub-Regional Employment Exchange, Rohtak, working on an *ad hoc* basis is relieved of her duties on 31st

S. N. BHANOT,

Commr. and Secy.

LABOUR DEPARTMENT

The 19th August, 1973

No. 7994-4Lab-73/29674.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s D. R. Kumar Brothers, Gurgaon —

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 30 of 1972

between

THE WORKMEN AND THE MANAGEMENT OF M/s D. R. KUMAR BROTHERS, GURGAON

Present.—Shri Sardha Nand for the workmen.

Shri D. C. Chadha for the management.

AWARD

The workmen of M/s D.R. Kumar Brothers, Gurgaon, raised certain demands including bonus for the year 1970-71 at a rate higher than 4 per cent already paid, increase of Rs 3 in their wages on account of rise of cost of living index numbers, supply of uniforms, Gur, and milk to the moulders working on the boiler etc. which were not acceded to by the management. This gave rise to an industrial dispute. Conciliation proceedings were initiated on the demand notice given by the workmen on 18th September, 1971 which ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the above dispute for adjudication to this Tribunal vide order No ID/GG/64-A-72/14749, dated 18th April, 1972 with the following terms of reference:—

- (1) Whether the workers should be paid bonus for the year 1970-71 at higher rate than 4 per cent already paid ? If so, with what details ?
- (2) Whether all the workers of the factory should be allowed increase of Rs 3 given by the Haryana Government in the year 1970 on account of rise in the cost of living index numbers ? If so, with what details ?
- (3) Whether the moulders working on the boiler should be given uniforms, Gur and milk ? If so, with what details ?
- (4) Whether the workers working on boiler should be provided goggles ? If so, with what details ?

Usual notices were given to the parties and they put in their respective written statements. The workmen concerned reiterated their demands as earlier raised through the demand notice leading to the present reference contending that the management had made huge profits in the past and was in a position to pay them bonus at 20 per cent of their earnings and meet their other demands also. The management on the other hand controverted the above allegations of the workmen and pleaded that on account of losses incurred throughout it was not in a position to meet the demands of the workmen for payment of bonus at a rate higher than 4 per cent already paid and that the other demands of the workmen were also not well founded.

From the pleadings of the parties the issues which arose for determination were precisely the same as per the terms of reference stated above. The workmen have examined three witnesses including Sarvshri Arjan Lal, W.W. 1, Shri Durga Parshad, W.W. 2, Shri Tarak Chander W.W. 3. The sum and substance of the oral depositions made by these witnesses is that during the past year the management had made huge profits and they were entitled to the payment of bonus at a higher rate. According to them the quality and quantity of production had considerably increased but the management had refused to pay them due bonus nor the increase of Rs 3 in their wages which had been allowed by the Haryana Government in the year 1970 on account of the rise of costs of living index. The witnesses have further strived to make out a case for the supply of uniforms, milk, Gur and goggles.

The management has examined two witnesses Shri S.K. Jain, Partner, M.W. 1, and Shri Kistori Lal Manager P.W. 2. The documentary evidence relied upon by the management consists of the balance sheet and profit and loss account statement for the year ending 31st March, 1971, Ex. M.W. 1/1, statement showing the wage structure of the workmen, Ex. M.W. 1/2, computation chart has also been filed by the management but none by the workmen.

Arguments have been addressed on both sides. Written arguments have also been filed on behalf of the management. I have given a careful consideration to the facts on record and the contentions of the parties. The issue involved may be taken up separately.

Item No. 1

Whether the workers should be paid bonus for the year 1970-71 at higher rate than 4 per cent already paid? If so, with what details?

As would be clear from the facts admitted on both sides, the management had already paid bonus at 4 per cent for the year in question. The demand of the workmen is for payment of bonus at a higher rate obviously on the ground that the management had made huge profits during the period in question. The allegation has been seriously contested on behalf of the management and on a careful scrutiny of the evidence on record, I find that the contention is not without force. A perusal of the balance sheet and the profit and loss account statement produced by the management for the relevant period, Ex. M.W. 1/1 on record, would show that the management had actually incurred losses amounting to Rs 20,171.15 during this period. The balance sheet which has been prepared by the firm of Chartered Accountant carries with it a presumption of correctness. The workmen have no doubt filed objections to the balance-sheet but have adduced no proof nor made out any proper case to dislodge the presumption of correctness which attaches to this document under the provisions of section 23 of the Payment of Bonus Act, 1965. The mere vague and oral assertion made by them that the management had earned huge profit during this period in the absence of cogent and convincing evidence carries no weight and, in the circumstances, the correctness balance-sheet and profit and loss account statement cannot be disbelieved.

It has come in evidence that during the previous year the management had paid higher bonus when it was actually earning profits and for the year 1967 bonus at 20 per cent of the earnings of the workers had been paid, that shows the bona fides of the management. One of the allegations made by the workmen is that they had not been entitled to bonus at higher rate for the year in question because of their trade union activities. This contention is not warranted by the facts on record. The union was in existence in 1967 also and quite a number of the workmen of this concern were admittedly members of the union at that time. Had the management been actuated by any motive of victimisation against the workmen on account of their trade union activities, it is not believable that the workmen would have been paid bonus at 20 per cent of their earnings for the year 1967.

So for the reason discussed above and taking into consideration the fact that the management had actually incurred losses during the relevant year, I find that the claim of the workmen for payment of bonus at a rate higher than 4 per cent for the year 1970-71 is not well founded. The issue is accordingly decided against the workmen.

Item No. 2

Whether all the workers of the factory should be allowed increase of Rs 3 given by the Haryana Government in the year 1970 on account of rise in the cost of living index numbers? If so, with what details?

The case for the workmen is that during the year 1970-71 there had been an enormous increase in the prices of essential commodities and the Haryana State Government had allowed an increase of Rs 3 in the wages on account of the rise in the costs of living index numbers and as such they were also entitled to this benefit. The management

has contested this claim and the burden was on the workmen to establish it by bringing on record sufficient evidence but they have simply failed to discharge this burden. Except for the bald assertion made in their statement regarding the said increase of Rs 3 by the State Government no other evidence has been brought on record, documentary or oral to justify this claim. A copy of the relevant notification No. 1115-LAB-70, dated 4th February, 1970, issued by the State Government has been produced by the management. This notification was issued under the Minimum Wages Act pertaining to the employment of agricultural implements, machine tools and general engineering cycle and electrical goods industries. The respondent concern is actually engaged in the manufacture of sanitary goods only and as such it is obviously not covered by the said notification. Moreover, as would be clear from the perusal of the statement, Ex. M.W. 1/2, showing the wage structure of the workmen of various categories the management is already paying wages over and above the minimum rates prescribed by the State Government under the Minimum Wages Act. The workmen have, therefore, no good case for the increase of Rs 3 in the wages asked for by them on the aforesaid notification of the State Government. The issue is decided against them.

Item No. 3

Whether the moulders working on the Boiler should be given uniforms, gur and milk ? If so, with what details ?

The workmen have again failed to adduce sufficient and satisfactory evidence to justify their demand for the supply of uniforms, milk and gur and no evidence has been brought on record to show that workers in similar other establishments in the locality are getting these benefits over and above their wages. Their contention is that the moulders have to work at the boiler under high temperature resulting in the spoiling of their clothes and they need more energetic food. On the other hand the plea of the management is that as a matter of fact no boiler has been installed in the factory and this is admitted by W.W.1 Shri Arjun Lal Filter in his cross-examination. This cuts at the very root of their claim. Since there is admittedly no boiler installed in the factory, the claim of the workmen for the supply of uniforms, milk and gur which is based on this ground cannot, therefore, be upheld. The claim has to be disallowed for want of sufficient evidence to support the same as already discussed. The issue is held accordingly against the workmen.

Item No. 4

Whether the workers working on Boiler should be provided goggles ? If so, with what details ?

The claim of the workmen for the supply of goggles covered by item No. 4 of the reference cannot be held to be altogether unjustified. Taking into consideration the nature of the work and the duties performed by them, it cannot be said that they do not require goggles. It has come in the statement of Shri Kisturi Lal, Manager, M.W. 2, that some goggles are kept in the store for the use of the workmen. He has further admitted in his cross-examination that flames do come out of the furnaces when they are running. In the circumstances I do not find any force in the contention of the management that the workmen are not entitled to goggles even if there is no boiler installed in the factory. They work at the furnaces and since flames come out when these are running their eye sight is likely to be affected if they do not use goggles. The very fact that goggles are kept in the store by the management, as admitted by M.W. 2, shows that the workers do require them while working at the furnaces. I, therefore, decide the issue in favour of the workmen concerned and hold that they are entitled to goggles and the management should provide the same in future.

In view of my above findings on the issues involved the claim of the workmen for payment of higher bonus, increase of Rs 3 in their wages, supply of uniforms, gur and milk being not well founded. They cannot be entitled to any relief in respect of these demands covered by item Nos. 1, 2 and 3 of the reference. They are no doubt entitled to goggles as per their demand No. 4 and the management should provide goggles in future to all the workers working on the furnaces. The award is made accordingly. In the circumstances, there shall be no order as to costs.

O. P. SHARMA,

Dated 31st May, 1973.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 924, dated 1st August, 1973.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O.P. SHARMA,

Dated 31st May, 1973.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.